

Appl. No. : 10/634,212
Filed : August 5, 2003

REMARKS

With this amendment, Claims 11-18 are pending in the present application. Claims 1-10 have been canceled, Claims 11-12 have been amended, and Claims 13-18 have been added. In view of the foregoing amendments and following remarks, Applicant respectfully requests reconsideration and allowance of this application.

Claims Rejections – 35 U.S.C. §102(b) and 103(a)

The Examiner rejected the pending claims under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,650,958 to Gallagher et al. or in the alternative under 35 U.S.C. 103(a) as being unpatentable over Gallagher in view of U.S. Patent No. 6,624,987 to Hayashi or U.S. Patent No. 6,242,770 to Bronner et al. The Examiner also indicated that Claim 11 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

While the Applicant respectfully disagrees with the Examiner's conclusion that the pending claims are unpatentable over the cited references, in the interest of expediting prosecution of this application, Applicant has canceled Claims 1-10 and amended Claim 11 to independent form, incorporating all of the limitations of the base claim and any intervening claims. Applicant has also amended Claim 12 to include limitations directed to a spacer formed of a material selected from the group consisting of SiN, SiC, and a-carbon. Additionally, Applicant has added Claims 13-28 as dependent claims of Claim 11.

CONCLUSIONS

In view of the foregoing, Applicant respectfully submits that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. Should there be any impediment to the prompt allowance of this application that could be resolved through a telephone conference, the Examiner is respectfully requested to call the undersigned at

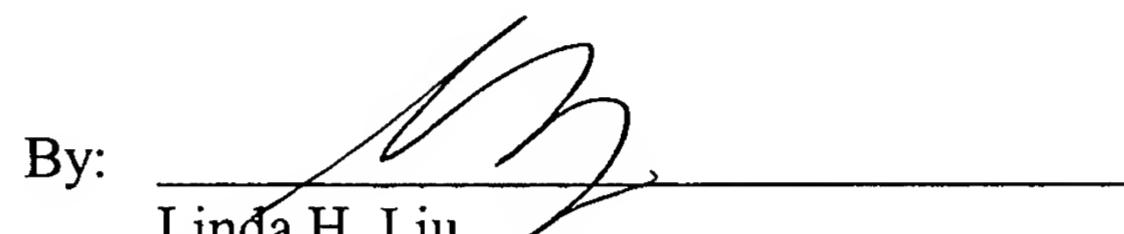
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the number shown below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9/24/2004

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